

DECISION



12701 *Center*
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548 *Proc I*

FILE: B-196723

DATE: February 1, 1980

MATTER OF: National Council of Senior Citizens, Inc.

DIGEST:

Protest is untimely because not diligently pursued where protester waited more than 5 weeks from notice of rejection of proposal to submit Freedom of Information Act request which led to information underlying protest.

22 The National Council of Senior Citizens, Inc. (NCSC), protests the rejection of its proposal submitted in response to a request for proposals (RFP) issued by the Department of Health, Education, and Welfare (DHEW). DHEW contends that NCSC's protest is untimely under our Bid Protest Procedures, 4 C.F.R. part 20 (1979). We agree.

Although advised by a letter received on September 10, 1979, of the rejection of its proposal, it was not until October 18 that NCSC submitted a Freedom of Information Act (FOIA) request seeking the details of DHEW's determination that its proposal was technically unacceptable. DHEW responded to NCSC's FOIA request the following day by providing NCSC copies of materials pertaining to the evaluation of its proposal and by debriefing NCSC on October 24. NCSC's protest was filed with our Office on November 7.

Our Bid Protest Procedures require that protests be filed within 10 working days of the date the basis for protest is known or should have been known, whichever is earlier. 4 C.F.R. § 20.2(b)(2) (1979).

DHEW argues that the protest is untimely under the foregoing section because the protest was filed more than 10 days after DHEW responded to the FOIA request.

[Protest Against Bid Rejection]

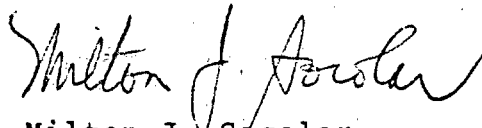
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NCSC responds that DHEW officials advised that the 10 days would not begin to run until the debriefing and its protest was timely filed within 10 days thereafter. Since NCSC's argument in this regard is un rebutted, we will presume it was timely filed under section 20.2(b)(2).

However, we have held that a protester's failure to diligently pursue the matter by seeking within a reasonable time the information which reveals the basis for protest requires rejection of the protest as untimely. Cardion Electronics, B-193752, June 8, 1979, 79-1 CPD 406; Loral Electronic Systems Division, Loral Corporation, B-187779, February 22, 1977, 77-1 CPD 125; Graphics, Communications Systems, Inc., B-186715, July 23, 1976, 76-2 CPD 75.

Although aware on September 10 that its proposal had been rejected, NCSC did not inquire immediately or within a reasonable time as to the reasons for its rejection, but instead waited more than 5 weeks to submit the FOIA request which ultimately led to this protest. As a result, we regard NCSC's protest as untimely.

The protest is dismissed.



Milton J. Socolar
General Counsel